



General Assembly

January Session, 2013

Raised Bill No. 986

LCO No. 3693



Referred to Committee on JUDICIARY

Introduced by:
(JUD)

***AN ACT CONCERNING THE APPLICABILITY OF PROBATE COURT
ORDERS TO STATE AGENCIES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1 Section 1. (NEW) (*Effective October 1, 2013*) (a) Each state agency
2 shall recognize, apply and enforce any order, denial or decree of a
3 Probate Court that is applicable to any determination made by the
4 state agency in a contested case. Any state agency aggrieved by an
5 order, denial or decree of a Probate Court that is applicable to such a
6 determination may appeal therefrom to the Superior Court in
7 accordance with section 45a-186 of the general statutes, as amended by
8 this act.
- 9 (b) For the purposes of this section, "state agency" means an agency,
10 as defined in section 4-166 of the general statutes, and "contested case"
11 means a contested case, as defined in section 4-166 of the general
12 statutes.
- 13 Sec. 2. Section 45a-186 of the general statutes is repealed and the
14 following is substituted in lieu thereof (*Effective October 1, 2013*):

15 (a) Except as provided in sections 45a-187 and 45a-188, any person
 16 aggrieved by any order, denial or decree of a [court of probate] Probate
 17 Court in any matter, unless otherwise specially provided by law, may,
 18 not later than forty-five days after the mailing of an order, denial or
 19 decree for a matter heard under any provision of section 45a-593, 45a-
 20 594, 45a-595 or 45a-597, sections 45a-644 to 45a-677, inclusive, or
 21 sections 45a-690 to 45a-705, inclusive, and not later than thirty days
 22 after mailing of an order, denial or decree for any other matter in a
 23 [court of probate] Probate Court, appeal therefrom to the Superior
 24 Court. Such an appeal shall be commenced by filing a complaint in the
 25 superior court in the judicial district in which such [court of probate]
 26 Probate Court is located, or, if the [court of probate] Probate Court is
 27 located in a probate district that is in more than one judicial district, by
 28 filing a complaint in a superior court that is located in a judicial district
 29 in which any portion of the probate district is located, except that (1)
 30 an appeal under subsection (b) of section 12-359, subsection (b) of
 31 section 12-367, [or] subsection (b) of section 12-395 or section 1 of this
 32 act shall be filed in the judicial district of Hartford, and (2) an appeal in
 33 a matter concerning removal of a parent as guardian, termination of
 34 parental rights or adoption shall be filed in any superior court for
 35 juvenile matters having jurisdiction over matters arising in any town
 36 within such probate district. The complaint shall state the reasons for
 37 the appeal. A copy of the order, denial or decree appealed from shall
 38 be attached to the complaint. Appeals from any decision rendered in
 39 any case after a recording is made of the proceedings under section
 40 17a-498, 17a-685, 45a-650, 51-72 or 51-73 shall be on the record and
 41 shall not be a trial de novo.

42 (b) Each person who files an appeal pursuant to this section shall
 43 mail a copy of the complaint to the [court of probate] Probate Court
 44 that rendered the order, denial or decree appealed from, and serve a
 45 copy of the complaint on each interested party. The failure of any
 46 person to make such service shall not deprive the Superior Court of
 47 jurisdiction over the appeal. Notwithstanding the provisions of section
 48 52-50, service of the copy of the complaint shall be by state marshal,

49 constable or an indifferent person. Service shall be in hand or by
50 leaving a copy at the place of residence of the interested party being
51 served or at the address for the interested party on file with said [court
52 of probate] Probate Court, except that service on a respondent or
53 conserved person in an appeal from an action under part IV of chapter
54 802h shall be in hand by a state marshal, constable or an indifferent
55 person.

56 (c) Not later than fifteen days after a person files an appeal under
57 this section, the person who filed the appeal shall file or cause to be
58 filed with the clerk of the Superior Court a document containing (1) the
59 name, address and signature of the person making service, and (2) a
60 statement of the date and manner in which a copy of the complaint
61 was served on the [court of probate] Probate Court and each interested
62 party.

63 (d) If service has not been made on an interested party, the Superior
64 Court, on motion, shall make such orders of notice of the appeal as are
65 reasonably calculated to notify any necessary party not yet served.

66 (e) A hearing in an appeal from probate proceedings under section
67 17a-77, 17a-80, 17a-498, 17a-510, 17a-511, 17a-543, 17a-543a, 17a-685,
68 45a-650, 45a-654, 45a-660, 45a-674, 45a-676, 45a-681, 45a-682, 45a-699,
69 45a-703, [or] 45a-717 or section 1 of this act shall commence, unless a
70 stay has been issued pursuant to subsection (f) of this section, not later
71 than ninety days after the appeal has been filed.

72 (f) The filing of an appeal under this section shall not, of itself, stay
73 enforcement of the order, denial or decree from which the appeal is
74 taken. A motion for a stay may be made to the [Court of] Probate
75 Court or the Superior Court. The filing of a motion with the [Court of]
76 Probate Court shall not preclude action by the Superior Court.

77 (g) Nothing in this section shall prevent any person aggrieved by
78 any order, denial or decree of a [court of probate] Probate Court in any
79 matter, unless otherwise specially provided by law, from filing a

80 petition for a writ of habeas corpus, a petition for termination of
81 involuntary representation or a petition for any other available
82 remedy.

83 (h) (1) Except for matters described in subdivision (3) of this
84 subsection, in any appeal filed under this section, the appeal may be
85 referred by the Superior Court to a special assignment probate judge
86 appointed in accordance with section 45a-79b, who is assigned by the
87 Probate Court Administrator for the purposes of such appeal, except
88 that such appeal shall be heard by the Superior Court if any party files
89 a demand for such hearing in writing with the Superior Court not later
90 than twenty days after service of the appeal.

91 (2) An appeal referred to a special assignment probate judge
92 pursuant to this subsection shall proceed in accordance with the rules
93 for references set forth in the rules of the judges of the Superior Court.

94 (3) The following matters shall not be referred to a special
95 assignment probate judge pursuant to this subsection: Appeals under
96 sections 17a-75 to 17a-83, inclusive, section 17a-274, sections 17a-495 to
97 17a-528, inclusive, sections 17a-543, 17a-543a, 17a-685 to 17a-688,
98 inclusive, and section 1 of this act, children's matters as defined in
99 subsection (a) of section 45a-8a, sections 45a-644 to 45a-663, inclusive,
100 45a-668 to 45a-684, inclusive, and 45a-690 to 45a-700, inclusive, and
101 any matter in a [court of probate] Probate Court heard on the record in
102 accordance with sections 51-72 and 51-73.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2013</i>	New section
Sec. 2	<i>October 1, 2013</i>	45a-186

JUD *Joint Favorable*